



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,974	07/30/2003	Edward W. Jackson	127524-1000	9515
32914	7590	11/18/2005	EXAMINER	
GARDERE WYNNE SEWELL LLP INTELLECTUAL PROPERTY SECTION 3000 THANKSGIVING TOWER 1601 ELM ST DALLAS, TX 75201-4761			LE, TAN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,974

Applicant(s)

JACKSON, EDWARD W.

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

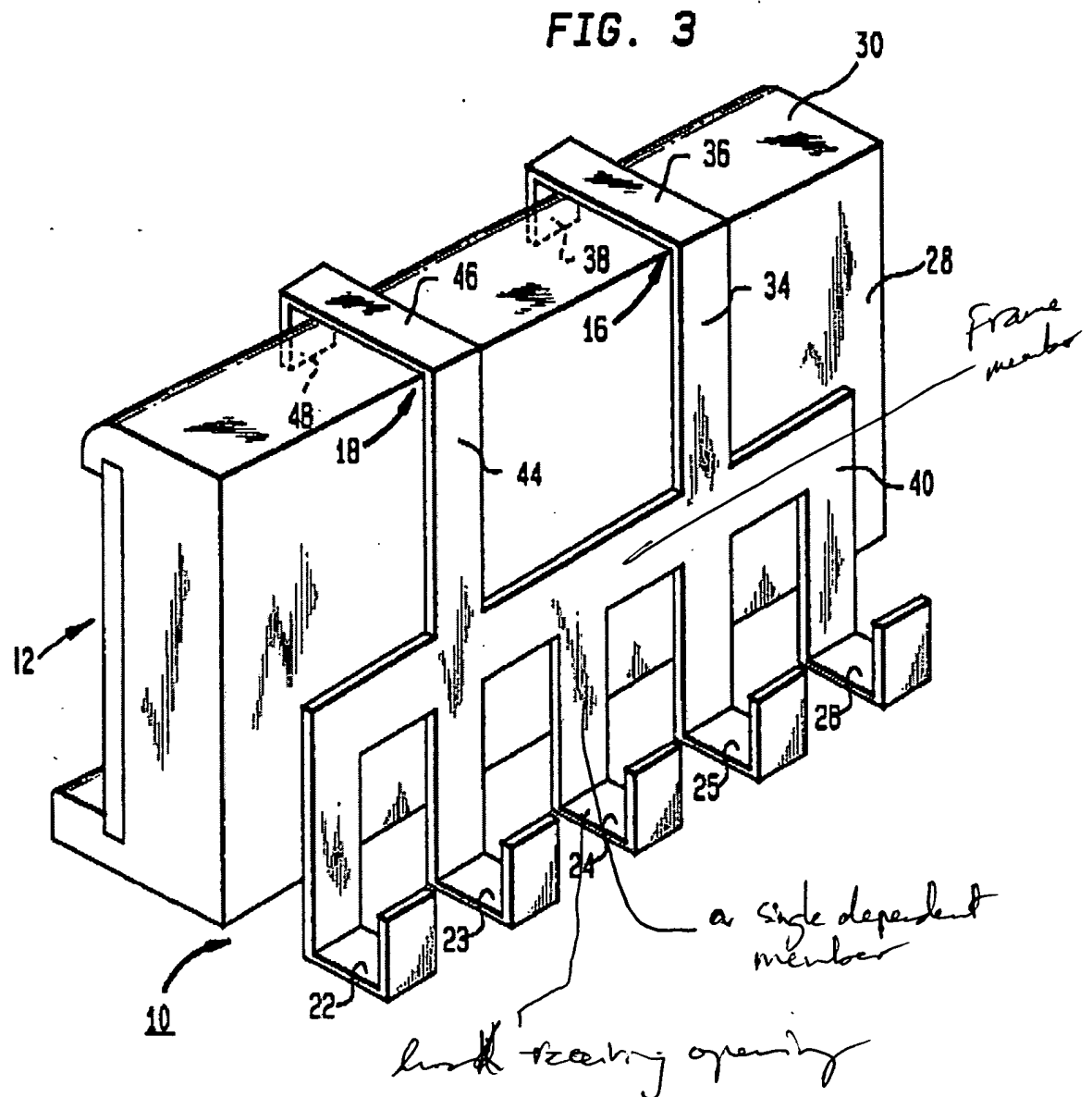
1. This action is responsive to Applicant's amendment filed 11/03/05. This application contains claims numbered 12-15. Claims 1-11 have been canceled.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/03/05 has been entered.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,037,051 to Moriello in view of US Patent No. 5,314,155 to Behrendt et al. and further in view of US Patent No. 6,446,762 to St. Pierre et al.

As to claim 12, Moriello teaches a hanger having a plurality of spaced apart hook members interconnected by a frame member (40) and a dependent shank part (34, 44) connected to the frame member between opposite ends of the frame member and a single dependent member (24 for example) connected to the frame member substantially mid way of the frame member, wherein the dependent member has a hook receiving opening means.

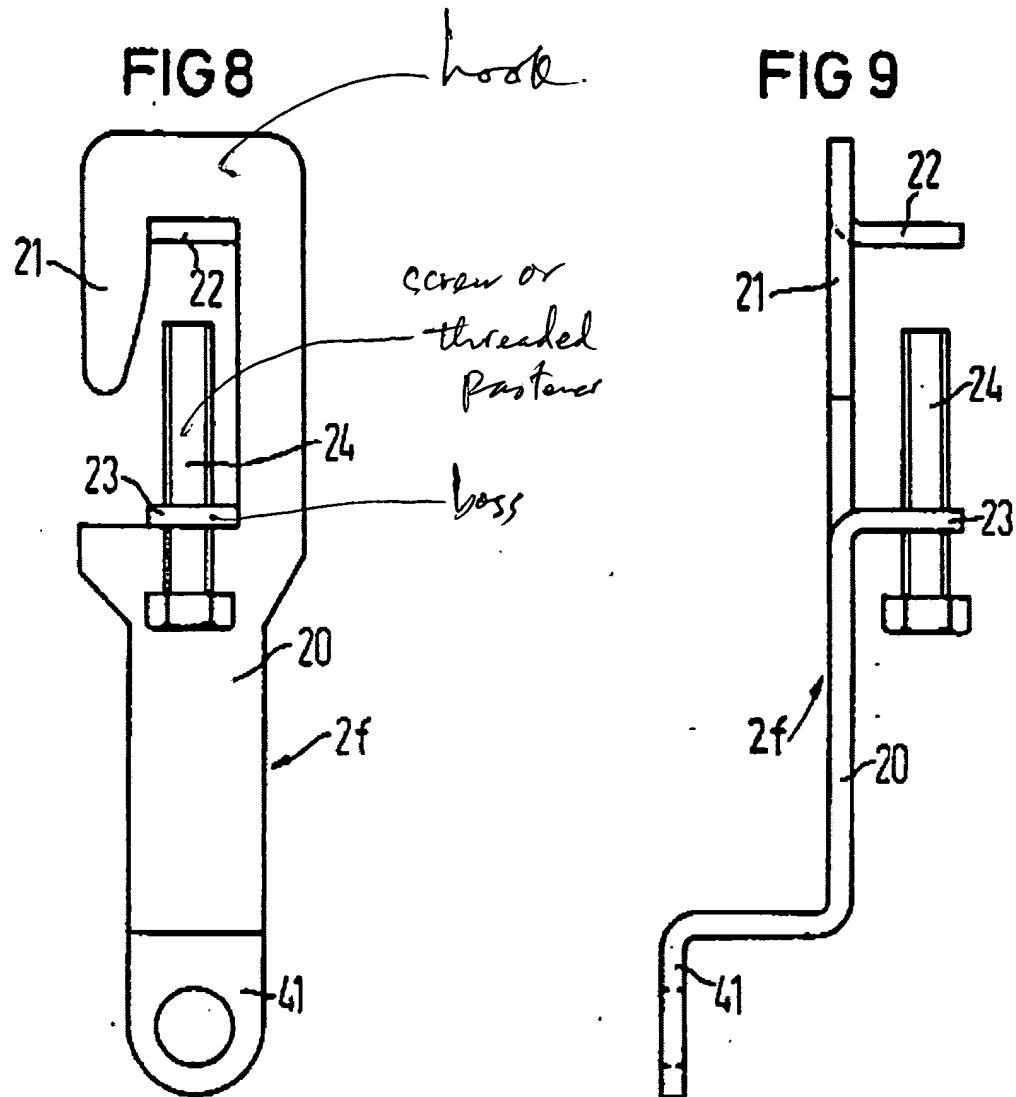


Morriello teaches substantially as claimed as discussed above. Not disclosed is the plurality of hooks each having a retaining means disposed on the depending shank part for retaining the hook members connected to the rail.

Art Unit: 3632

Behrendt et al teaches hooks (2) (Figures 8-9 or 10-11 or 12) each has a retaining means (24) which comprises screws or threaded fasteners threadingly engaged with boss (23 substantially) disposed on a depending shank part for retaining the hook to the rails (3) wherein the retaining means engaged to an underside surface of the support rail so as to prevent accidental disengagement of the hook from the rail.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hooks of Moriello to include retaining means as in Behrendt et al. in order to prevent accidental disengagement of the hook from the rail.



Moriello in view of Behrendt teaches the hooks that can be hanging on the rail, cable barrier or the like but does not expressly teach the hook to be attached to a

Art Unit: 3632

support rail of the elevator door at a door way between a floor of the building and a hoist way in the building.

St. Pierre et al teaches support rail of the elevator door at a doorway between a floor of the building and a hoist way in the building.

It would have been obvious and well within the level of ordinary skill in the art to have the hooks of Moriello in view of Behrendt hanging on the support rail of St. Pierre et al. for the purpose of hanging or supporting a hoist equipment or the like. The use of hanging hooks for hanging or supporting an object is conventional and to use such in the same intended purpose would have been obvious and well within the level of ordinary skill in the art thereby providing structure as claimed.

As to claim 13, Moriello in view of Behrendt and St. Pierre et al. also teaches the subject matter of claim 13 since the screw heads of Behrendt et al. are conventional hexhead screws which can be used with suitable driving tool or wrench, thus the screws of Behrendt can be described as an alternative equivalent type to the sockethead screws of Applicant since Applicant described in the specification that the screws 44 (sockethead screws) is exemplary screws, "conventional hexhead screws or the like may also be used in place of the screws" (emphasis added).

As to claims 14, claim 14 recited limitations similar to those recited in claims 12-13, which is also read on Moriello in view of Behrendt et al. and St. Pierre et al.

As to claim 15, claim 15 also recited similar limitations as to those recited in claims 12-13 or 14 with an additional recitation that "each of said hook members, said frame member and said depending member being formed of rectangular cross section

Art Unit: 3632

metal plate, said members being interconnected by welding" (lines 18-20). Moriello in view of Behrendt and St. Pierre et al does not specifically teaches the members being formed of rectangular cross section metal plate shaped and being interconnected by welding although the drawings appear to show rectangular plate shaped.

Nevertheless, it would have been an obvious matter of design choice to make the members to be rectangular cross section plate shaped, since applicant has not disclosed that a rectangular plate shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the shaping members formed to shapes other than rectangular. The particular shape claimed by the Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art provides for using routine experimentation based on its suitability for the intended use of the invention. See *In Re Daily*, 149 USPQ 47 (CCPA 1976).

In addition, to have select the members as rectangular plate shape and the material being formed of metal as being claimed are also deemed obvious over Moriello in view of Behrendt and St. Pierre because it was obvious that the shape and material as selected may be selected from any shape and any material that's suitable for the intended purpose which has no limited in Moriello in view of Behrendt and St. Perre's teaching. The shape and material selection is considered to be a matter of design choice and dependent upon the intended application and the configuration of the object to which the hook will be attached.

Note that claim 15 recites the terms such as "being formed of metal plate" or "being interconnected by welding" is a product- by -process claim. Referring the members to the process step such as forming or welding is not accorded patentable weight in the product-by-process claim. It is well settled that the patentability of a product does not depend on its method of production. Product -by-process claims are not construed as being limited to the product formed by the specific process recited. In re Hirao et al., 535 F2d 67, 190 USPQ 15.

Response to Arguments

4. Applicant's arguments filed 11/03/05 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone

Art Unit: 3632

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le
November 10, 2005


ANITA KING
PRIMARY EXAMINER